

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation  
Against:**

**Gary Joseph Ordog, M.D.**

**Case No. 800-2014-009542**

**Physician's and Surgeon's  
Certificate No. G 43038**

**Respondent**


**DECISION**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on January 5, 2018.**

**IT IS SO ORDERED December 8, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Kristina Lawson, J.D., Chair  
Panel B**

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

GARY JOSEPH ORDOG, M.D.,  
Physician's and Surgeon's Certificate  
No. G 43038,

Respondent.

Case No. 800-2014-009542

OAH No. 2017041197

**PROPOSED DECISION**

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on October 2, 2017, in Los Angeles.

Christine Friar, Deputy Attorney General, represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.

No appearance was made by or on behalf of respondent Gary Joseph Ordog, M.D.

Complainant requested that respondent's default be entered and that complainant be permitted to prove up the allegations set forth in the Accusation. This matter proceeded as a default under Government Code section 11520. Complainant presented documentary evidence.

The record was closed and the matter was submitted for decision on October 2, 2017.

**FACTUAL FINDINGS**

*Jurisdiction*

1. Complainant filed the Accusation in her official capacity. She caused the Accusation to be served on respondent by U.S. certified mail at his address of record in Newhall, California, and at the U.S. Penitentiary in Lompoc, California, where respondent is currently incarcerated, on March 3, 2017.

2. On March 21, 2017, respondent signed, wrote his Newhall address on, and, through his attorney, timely filed a Notice of Defense and requested a hearing.

3. A Notice of Assigned Hearing Dates setting this matter for hearing on October 2 and 3, 2017, was served on respondent, at his Newhall address, and on respondent's attorney on April 27, 2017.

4. On May 11, 2017, complainant served a Notice of Hearing on respondent's attorney, again notifying respondent that the hearing dates would be October 2 and 3, 2017.

5. On September 28, 2017, respondent's attorney informed complainant's counsel that neither he nor respondent would appear at this hearing. Respondent's attorney made the same representation to OAH on September 29, 2017.

6. Findings 1 through 5 reflect that respondent's failure to appear at the hearing constituted a default. The hearing proceeded as a default prove-up.

7. The Board issued Physician's and Surgeon's Certificate No. G 43038 to respondent on August 18, 1980. That certificate is scheduled to expire on June 30, 2018.

#### *Respondent's Conviction*

8. On March 27, 2015, in the case of *United States of America v. Gary J. Ordog, M.D.*, United States District Court for the Central District of California, Case Number CR 2:15-00152-FMO (*U.S. v. Ordog*), Respondent was indicted on nine counts of violating 18 U.S.C. § 1347, health care fraud, a felony. On April 24, 2016, respondent entered into a plea agreement whereby he agreed to plead guilty to Count One of the indictment, health care fraud (18 U.S.C. § 1347), a felony.

9. In the plea agreement, respondent admitted his guilt and agreed to the following statement of facts:

At all times relevant to this plea agreement, the Medicare Program ("Medicare") was a federal health care benefit program, as defined by Title 18, United States Code, Section 24(b).

Defendant was a physician, licensed in the State of California, specializing in toxicology, and a Medicare provider with the ability to submit claims to Medicare for outpatient physician services. Defendant was responsible for all claims submitted on his behalf to Medicare. As a licensed physician and Medicare provider, defendant held a position of trust as to Medicare.

Beginning in or around January 2009, and continuing through in or around February 2015, in Los Angeles County, within the Central District of California, and elsewhere, defendant, together with others, knowingly,

willfully and with intent to defraud, executed and attempted to execute, a scheme and artifice to defraud a health care benefit program, namely Medicare, as to material matters in connection with the delivery of and payment for health care benefits, items, and services.

Specifically, defendant submitted false and fraudulent claims to Medicare for purported office visits and other services that the defendant, in fact, never provided, including: (a) purported services for Medicare beneficiaries who were deceased well before the purported date of services; (b) services purportedly provided to beneficiaries on dates and times when the defendant was, in fact, out of the area, including on dates and times when the defendant was outside of the United States; (c) for dates and times in which the defendant claimed to have provided more than 24 hours of services for that date. Defendant, at times, fabricated patient records to support false and fraudulent claims to Medicare.

During the course of the scheme, from in or around January 2009, and continuing through in or around February 2015, defendant submitted and caused the submission of approximately \$2,435,089.00 in false and fraudulent claims, of which Medicare paid \$1,295,699.57.

Defendant committed all of the above acts knowingly and willfully, and with the intent to defraud.

(Ex. 4, pp. 7-8.)

10. On October 11, 2016, respondent pled guilty and was convicted of one count of violating 18 U.S.C. § 1347 (health care fraud), a felony. The court sentenced respondent to serve 18 months in federal prison. The court further ordered that upon his release from prison, respondent will be placed on supervised release for three years on terms and conditions including that respondent participate in a 12-month home detention program, pay restitution to Medicare in the total amount of \$1,295,699.57, and not be employed in any position that requires licensing or certification without the prior written approval of his probation officer.

#### *Other Disciplinary Considerations*

11. On May 26, 2006, in a disciplinary action entitled *In the Matter of the Second Amended Accusation Against Gary Ordog, M.D.*, Case No. 05-2001-124743, the Board revoked respondent's certificate, stayed the revocation, and placed respondent on seven years' probation with multiple terms and conditions, based on gross negligence, repeated negligent acts, incompetence, making false statements, and inadequate record keeping, involving four patients. The Board also suspended respondent's license for 90 days.

12. On September 13, 2013, in a disciplinary action entitled *In the Matter of the Petition to Revoke Probation Against Gary Joseph Ordog, M.D.*, Case No. D1-2001-124743, the Board, after a Stipulated Settlement and Disciplinary Order, extended respondent's

probation for 18 months, based on allegations that respondent violated Condition 4 of his probation, which prohibited him from engaging in a medical-legal or forensics practice of medicine while his license was on probation.

13. On April 16, 2015, an Order was issued in *U.S. v. Ordog*, making it a condition of respondent's bail that respondent provide to the United States Justice Department, under a protective order, copies of paper billings submitted, along with hand written notes and other supporting documentation, for any service for which he was billing Medicare, and further ordering that respondent bill Medicare by paper billing only, not through electronic billing.

#### *Mitigation and Rehabilitation*

14. No evidence of mitigation or rehabilitation was offered.

### LEGAL CONCLUSIONS

#### *Burden of Proof*

1. The rigorous educational, training, and testing requirements for obtaining a physician's license justify imposing on complainant a burden of proof of clear and convincing evidence. (Evid. Code, § 115; see *Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Imports Performance v. Dept. of Consumer Affairs, Bur. of Automotive Repair* (2011) 201 Cal.App.4th 911.)

#### *Applicable Authority*

2. The Board's highest priority is to protect the public. (Bus. & Prof. Code, § 2229.)<sup>1</sup> The Board may revoke or suspend a physician's license for unprofessional conduct, which includes "[v]iolating or attempting to violate . . . any provision of this chapter." (§ 2234, subd. (a).) Unprofessional conduct includes "[t]he conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon." (§ 2236, subd. (a).) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed a conviction. (§§ 2236, subd. (d), 2239, subd. (b).)

#### *Cause for Discipline*

3. Cause exists to suspend or revoke respondent's license under sections 2234, subdivision (a), 2236, subdivisions (a) and (d), and 2239, subdivision (b), because respondent was convicted of violating 18 U.S.C. § 1347 (health care fraud), a felony and a crime substantially related to his qualifications, functions, and duties as a physician and surgeon, as set forth in Factual Findings 8 through 10.

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<sup>1</sup> Further statutory references are to the Business and Professions Code except where otherwise stated.

4. Respondent offered no evidence to establish that, although cause exists to suspend or revoke his license, disciplinary action should not be taken, or lesser discipline should be imposed, because his continued licensure would not present a risk to public safety and welfare. Based on Factual Findings 8 through 14, the safety of the public cannot be protected if respondent is permitted continued licensure at this time.

#### ORDER

Physician's and Surgeon's Certificate No. G 43038, issued to Gary Joseph Ordog, M.D., is revoked.

DATED: October 27, 2017

DocuSigned by:

*Howard W. Cohen*

D14G96A8C8954C5  
HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearing

1 XAVIER BECERRA  
Attorney General of California  
2 ROBERT MCKIM BELL  
Supervising Deputy Attorney General  
3 CHRISTINE R. FRIAR  
Deputy Attorney General  
4 State Bar No. 228421  
California Department of Justice  
5 300 So. Spring Street, Suite 1702  
Los Angeles, CA 90013  
6 Telephone: (213) 897-6404  
Facsimile: (213) 897-9395  
7 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO March 3 20 17  
BY R. Firdaus ANALYST

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2014-009542

12 GARY JOSEPH ORDOG, M.D.

**A C C U S A T I O N**

13 P.O. Box 220250  
14 Newhall, CA 91322

15 Physician's and Surgeon's Certificate  
No. G 43038,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs (Board).

23 2. On or about August 18, 1980, the Medical Board issued Physician's and Surgeon's  
24 Certificate Number G 43038 to Gary Joseph Ordog, M.D. (Respondent). The Physician's and  
25 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on June 30, 2018, unless renewed.

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28 //

**JURISDICTION**

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2234 of the Code, states in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"...."

5. Section 2236 of the Code states in pertinent part:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

"...."

"(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred."

6. Section 2239 of the Code states in pertinent part:

"...."

"(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4



1 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of  
2 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint,  
3 information, or indictment."

4 **CAUSE FOR DISCIPLINE**

5 **(Conviction of a Crime)**

6 7. Respondent is subject to disciplinary action under Code sections 2234, subdivision  
7 (a), 2236, subdivisions (a) and (d), and 2239, subdivision (b), in that Respondent pled guilty to  
8 and was convicted of violating 18 U.S.C. § 1347, felony health care fraud, an offense  
9 substantially related to the qualifications, functions, or duties of a physician and surgeon. The  
10 circumstances are as follows:

11 8. On or about March 27, 2015, in the case of *United States of America v. Gary J.*  
12 *Ordog, M.D.*, "United States District Court for the Central District of California, Case Number  
13 CR 2:15-00152-FMO, Respondent was charged with nine (9) counts of violating 18 U.S.C. §  
14 1347, health care fraud, a felony.

15 9. On or about April 24, 2016, Respondent entered into a plea agreement whereby he  
16 agreed to appear and plead guilty to Count One of the indictment in *United States of America v.*  
17 *Gary J. Ordog, M.D.*, "United States District Court for the Central District of California, Case  
18 Number CR 2:15-00152-FMO, health care fraud [18 U.S.C. § 1347], a felony.

19 10. In the plea agreement, Respondent admitted his guilt and agreed to the following  
20 statement of facts:

21 "At all times relevant to this plea agreement, the Medicare Program ("Medicare") was a  
22 federal health care benefit program, as defined by Title 18, United States Code, Section 24(b).

23 "Defendant was a physician, licensed in the State of California, specializing in toxicology,  
24 an a Medicare provider with the ability to submit claims to Medicare for outpatient physician  
25 services. Defendant was responsible for all claims submitted on his behalf to Medicare. As a  
26 licensed physician and Medicare provider, defendant held a position of trust as to Medicare.

27 "Beginning in or around January 2009, and continuing through in or around February 2015,  
28 in Los Angeles County, within the Central District of California, and elsewhere, defendant,

1 together with others, knowingly, willfully and with intent to defraud, executed and attempted to  
2 execute, a scheme and artifice to defraud a health care benefit program, namely Medicare, as to  
3 material matters in connection with the delivery of and payment for health care benefits, items,  
4 and services.

5 “Specifically, defendant submitted false and fraudulent claims to Medicare for purported  
6 office visits and other services that the defendant, in fact, never provided, including: (a)  
7 purported services for Medicare beneficiaries who were deceased well before the purported date  
8 of services; (b) services purportedly provided to beneficiaries on dates and times when the  
9 defendant was, in fact, out of the area, including on dates and times when the defendant was  
10 outside of the United States; (c) for dates and times in which the defendant claimed to have  
11 provided more than 24 hours of services for that date. Defendant, at times, fabricated patient  
12 records to support false and fraudulent claims to Medicare.

13 “During the course of the scheme, from in or around January 2009, and continuing through  
14 in or around February 2015, defendant submitted and caused the submission of approximately  
15 \$2,435,089.00 in false and fraudulent claims, of which Medicare paid \$1,295,699.57.

16 “Defendant committed all of the above acts knowingly and willfully, and with the intent to  
17 defraud.”

18 11. On October 11, 2016, Respondent was convicted, by way of a plea of guilty, to Count  
19 1 of CR 2:15-00152-FMO, health care fraud [18 U.S.C. § 1347], a felony.

20 12. Respondent was sentenced on October 11, 2016 to serve eighteen months in federal  
21 prison. Respondent was further sentenced to three years supervised probation upon his release  
22 from prison. During the first year of supervised probation, Respondent must participate in a  
23 home detention program. Respondent was ordered to pay restitution to Medicare in the total  
24 amount of \$1,295,699.57.

25 13. Respondent’s conduct, as set forth in paragraphs 8 through 12, inclusive above,  
26 constitutes the conviction of a crime substantially related to the qualifications, functions or duties  
27 of a physician. Pursuant to Code 2234, subdivision (a), 2236, subdivisions (a) and (d), and 2239,  
28 subdivision (b) cause for discipline exists.

**DISCIPLINARY CONSIDERATIONS**

14. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on May 26, 2006, in a prior action entitled *In the Matter of the Second Amended Accusation Against: Gary Ordog M.D.*, Case No. 05-2001-124743, before the Medical Board of California, Respondent's license was disciplined based on allegations of gross negligence, repeated negligent acts, incompetence, making false statements, and inadequate record keeping, involving four patients. An order of license revocation issued, but was stayed, and a seven-year period of probation was imposed with multiple terms and conditions. Respondent's license was also suspended for ninety (90) days. That decision is now final and is incorporated by reference as if fully set forth herein.

15. Complainant further alleges that on September 13, 2013, in another action entitled *In the Matter of the Petition to Revoke Probation Against: Gary Joseph Ordog, M.D.*, Case No. D1-2001-124743, before the Medical Board of California, and pursuant to a Stipulated Settlement and Disciplinary Order, Respondent's probation was extended for an additional eighteen (18) months. Respondent was alleged to have violated Condition 4 of his probation, which prohibited him from engaging in a medical-legal or forensics practice of medicine while his license was on probation. That decision is now final and is incorporated by reference as if fully set forth herein.

16. Complainant further alleges that on April 16, 2015, an Order was issued in *United States of America v. Gary J. Ordog, M.D.*, United States District Court for the Central District of California, Case Number CR 2:15-00152-FMO, making it a condition of Respondent's bail that Respondent provide to the United States Justice Department, pursuant to a protective order, copies of paper billings submitted, along with hand written notes and other supporting documentation, for any service for which he is billing Medicare and further ordering that Respondent shall bill Medicare by paper billing only, not through electronic billing.

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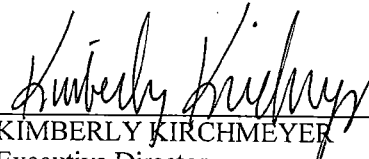
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 43038, issued to Gary Joseph Ordog, M.D.;
2. Revoking, suspending or denying approval of Gary Joseph Ordog, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Gary Joseph Ordog, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: March 3, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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